

1 MARK F. HAZELWOOD, # 136521  
DIRK D. LARSEN, # 246028  
2 LOW, BALL & LYNCH  
505 Montgomery Street, 7th Floor  
3 San Francisco, California 94111-2584  
Telephone: (415) 981-6630  
4 Facsimile: (415) 982-1634  
Email: [mhazelwood@lowball.com](mailto:mhazelwood@lowball.com)  
5 [dlarsen@lowball.com](mailto:dlarsen@lowball.com)

6 Attorneys for Defendants  
SILICON VALLEY ANIMAL CONTROL  
7 AUTHORITY, AL DAVIS, ANTJE MORRIS  
AND CITY OF CAMPBELL  
8

9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA - SAN JOSE  
11

12 LEE JACKSON and KENNETH JACKSON,

13 Plaintiffs,

14 v.

15 SILICON VALLEY ANIMAL CONTROL  
AUTHORITY, CITY OF SANTA CLARA, CITY  
16 OF CAMPBELL, HUMANE SOCIETY SILICON  
VALLEY DOES 1 TO 20,

17 Defendants.  
18

Case No. C07 05667 RS

DECLARATION OF RUSSELL  
PATTERSON IN SUPPORT OF  
DEFENDANTS SILICON  
VALLEY ANIMAL CONTROL  
AUTHORITY, AL DAVIS, ANTJE  
MORRIS AND CITY OF  
CAMPBELL'S MOTION FOR  
SUMMARY JUDGMENT, OR IN  
THE ALTERNATIVE, PARTIAL  
SUMMARY JUDGMENT

Date: September 3, 2008  
Time: 9:30 a.m.  
Courtroom: 4, 5th Floor  
Judge: Hon. Richard  
Seeborg

19  
20  
21  
22 I, RUSSELL PATTERSON, declare as follows:

23 1. I have personal knowledge of the following facts, and could and would testify  
24 competently thereto if called upon to do so.

25 2. As of December 22, 2005, I was employed as a Captain with the City of Campbell Police  
26 Department. I am currently retired from active duty. I had held the position as Captain with the  
27 Campbell Police Department since April 1997. Prior to that, I was employed as a Sergeant with the  
28 Campbell Police Department. My education and training with respect to post-seizure hearings consists

-1-  
DECLARATION OF RUSSELL PATTERSON IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

J:\1042\10016\Pld\MSI-Patterson,Dec.wpd

Case No. C07 05667 RS

1 of animal abuse training in the police academy, and reviewing police investigations of animal related  
 2 crimes as both a Detective Sergeant and a Patrol Sergeant. I have presided at over approximately  
 3 eighteen hearings challenging a prior seizure of property, of which six involved a seizure of pet animals.  
 4 I am familiar with due-process requirements for the conduct of such hearings, including notice and  
 5 opportunity to be heard.

6 3. On December 22, 2005, at 9:00 a.m., I presided over a hearing conducted by the Silicon  
 7 Valley Animal Control Authority ("SVACA") to determine the lawfulness of the December 19, 2005  
 8 seizure of 15 cats and 6 dogs from the motor home of plaintiffs Lee Jackson and Kenneth Jackson  
 9 ("Plaintiffs") in Santa Clara, California. I presided over the hearing in a capacity as *pro tempore*  
 10 SVACA hearing officer, not in my capacity as a Captain in the Campbell Police Department.

11 4. At the December 22, 2005 hearing, I reviewed the report and photographs prepared by  
 12 SVACA Officer Antje Morris, as well as the Notice of Seizure. Plaintiffs were present at the hearing  
 13 and were given the opportunity to present their position.

14 5. At hearing, I determined that SVACA's seizure and impoundment of the animals were  
 15 proper and justified. I made the following findings in support of this determination:

- 16 a. At the time of the seizure, on December 19, 2005, plaintiffs were living in a motor home  
 17 with six adult dogs and fifteen adult cats;
- 18 b. The inside of the motor home was cluttered and had an overwhelming stench of urine;  
 19 and there were numerous flies present;
- 20 c. One of dogs, a white Maltese, was hemorrhaging, and had severe dental problems and  
 21 overgrown nails;
- 22 d. Another dog, a Shih Tzu, had suffered a broken jaw approximately one year earlier. This  
 23 dog was also blind, underweight, had severe dental problems, and problems with his nails  
 24 and ears;
- 25 e. A Labrador mix was underweight with overgrown nails;
- 26 f. A male Lhasa Apso had overgrown nails and a matted coat;
- 27 g. A female Lhasa Apso was underweight, had a matted coat, and overgrown nails;
- 28 h. A Papillon mix was underweight and had overgrown nails;

1 i. Twelve cats were divided into two cat condos at six cats per condo at the far end of the  
2 motor home. Two feral cats shared another cat condo; and one remaining cat was  
3 confined to a small crate;

4 j. Litter boxes contained large amounts of fecal matter;

5 k. The water bowls inside the cat condos were either empty or barely filled with water;

6 l. The cats appeared to have health problems, including shriveled ears and missing fur;


7 m. Some of the cats displayed signs of upper respiratory infection, including sneezing and  
8 discharge from the eyes and nose.

9 G. Based on the findings described in the previous paragraph, I concluded that (1) there was  
10 a reasonable basis to believe the animals to be infected with disease transmittable to humans and to be  
11 potentially dangerous so as to be a threat to public health, safety or property; (2) there was a reasonable  
12 basis to believe that such seizure and impoundment was necessary to protect the public health or safety;  
13 (3) the animals were being cruelly treated; and (4) the officer had reasonable grounds to believe that very  
14 prompt action was required to protect the health or safety of the animals or others. A true and correct  
15 copy of the record of my findings at the December 22, 2005 hearing is attached hereto as Exhibit A and  
16 incorporated by this reference.

17 7. Following the hearing of December 22, 2005, I sent Plaintiffs a letter informing them of  
18 my decision with respect to the seizure of their animals. A true and correct copy of this letter is attached  
19 hereto as Exhibit B and incorporated by this reference.

20 I swear under penalty of perjury under the laws of the State of California that the foregoing is  
21 true and correct to the best of my own personal knowledge.

22  
23 Executed this 29th day of July, 2008, in Scotts Valley, California.

24  
25   
26 \_\_\_\_\_  
27 RUSSELL PATTERSON  
28

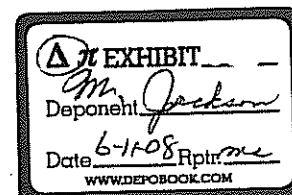
**EXHIBIT A**

### Findings in Support of Decision Affirming Seizure and Impoundment

On December 22, 2005, I, acting as a hearing officer for the Silicon Valley Animal Control Authority, conducted the post-seizure hearing on the seizure of cats and dogs from Lee and Kenneth Jackson. The hearing was conducted at the Offices of the Silicon Valley Animal Control Authority at 2324 Walsh Avenue, Santa Clara, California 95051. I reviewed the report and photographs prepared by Silicon Valley Animal Control Officer Antje Morris, and the Notice of Seizure. Lee and Kenneth Jackson were both present, and were given an opportunity to present their position.

Based on the substantial evidence presented, I find:

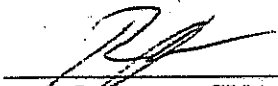
1. At the time of the seizure, on December 19, 2005, the Jacksons were living in motor home with six (6) adult dogs and fifteen (15) adult cats;
2. The motor home was parked in the parking lot of the Mervyns department store at the intersection of El Camino Real and Scott Boulevard in Santa Clara;
3. The inside of the motor home was cluttered and had an overwhelming stench of urine; and there were numerous flies present;
4. One of dogs, a white Maltese was hemorrhaging, and severe dental problems and overgrown nails;
5. Another dog, a Shih Tzu, had suffered a broken jaw when he had hit his head on a table while the Jacksons were driving approximately one year earlier. The dog was also blind, underweight, had severe dental problems, and problems with his nails and ears;
6. A Labrador mix was underweight with overgrown nails;
7. A male Lhasa Apso had overgrown nails and matted coat;
8. A female Lhasa Apso was underweight, had a matted coat, and overgrown nails;
9. A Papillon mix was underweight and had overgrown nails;
10. The dogs were tied up on leashes inside the motor home so as to have only about one foot (1') of movement;
11. Twelve (12) cats were divided into two (2) cat condos at six (6) cats per condo at the far end of the motor home. Two (2) feral cats shared another cat condo; and one (1) remaining cat was confined to a small crate;
12. Litter boxes contained large amounts of fecal matter;
13. The water bowls inside the cat condos were either empty or barely filled with water;



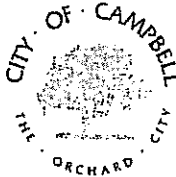
14. The cats appeared to have health problems, including shriveled ears and missing fur;
15. Some of the cats displayed signs of upper respiratory infection, including sneezing and discharge from the eyes and nose.

Based on the foregoing findings of fact, I further find and conclude:

1. There was a reasonable basis to believe the animals to be infected with disease transmittable to humans and to be potentially dangerous so as to be a threat to public health, safety or property;
2. There is a reasonable basis to believe that such seizure and impoundment was necessary to protect the public health or safety;
3. The animals were being cruelly treated;
4. The officer had reasonable grounds to believe that very prompt action was required to protect the health or safety of the animals or others.

  
\_\_\_\_\_  
Russ Patterson, SVACA Hearing Officer

**EXHIBIT B**



**CITY OF CAMPBELL**  
Police Department

December 22, 2005

Mr. and Mrs. Kenneth Jackson  
P.O. Box 858  
Gilroy, CA 95021

Dear Mr. and Mrs. Jackson:

Thank you for taking time to appear at the impoundment hearing held at the Silicon Valley Animal Control Authority offices on Thursday, December 22, 2005. This notice is to advise in writing of the decision that I made at this morning's hearing.

As I mentioned, I determined that the impoundment of your dogs and cats was proper and justified based on the information provided by Officer Morris. Should you have any additional questions, please contact Al Davis, SVACA's Field Services Manager, at (408) 744-0344.

Sincerely,

Russ Patterson  
Captain, Campbell Police Department  
SVACA Hearing Officer

cc: Al Davis, SVACA